

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

Subpart A—How To Apply for Operating Authority

Sec.

- 365.101 Applications governed by these rules.
- 365.103 Modified procedure.
- 365.105 Starting the application process: Form OP-1.
- 365.107 Types of applications.
- 365.109 FMCSA review of the application.
- 365.110 Need to complete New Entrant Safety Assurance Program.
- 365.111 Appeals to rejections of the application.
- 365.113 Changing the request for authority or filing supplementary evidence after the application is filed.
- 365.115 After publication in the FMCSA Register.
- 365.117 Obtaining a copy of the application.
- 365.119 Opposed applications.
- 365.121 Filing a reply statement.
- 365.123 Applicant withdrawal.

Subpart B—How To Oppose Requests for Authority

- 365.201 Definitions.
- 365.203 Time for filing.
- 365.205 Contents of the protest.
- 365.207 Withdrawal.

Subpart C—General Rules Governing the Application Process

- 365.301 Applicable rules.
- 365.303 Contacting another party.
- 365.305 Serving copies of pleadings.
- 365.307 Replies to motions.
- 365.309 FAX filings.

Subpart D—Transfer of Operating Rights Under 49 U.S.C. 10926

- 365.401 Scope of rules.
- 365.403 Definitions.
- 365.405 Applications.
- 365.407 Notice.
- 365.409 FMCSA action and criteria for approval.
- 365.411 Responsive pleadings.
- 365.413 Procedures for changing the name or business form of a motor carrier, freight forwarder, or property broker.

Subpart E—Special Rules for Certain Mexico-Domiciled Carriers

- 365.501 Scope of rules.
- 365.503 Application.

365.505 Re-registration and fee waiver for certain applicants.

365.507 FMCSA action on the application.

365.509 Requirement to notify FMCSA of change in applicant information.

365.511 Requirement for CVSA inspection of vehicles during first three consecutive years of permanent operating authority.

APPENDIX A TO SUBPART E OF PART 365—EXPLANATION OF PRE-AUTHORIZATION SAFETY AUDIT EVALUATION CRITERIA FOR MEXICO-DOMICILED MOTOR CARRIERS

AUTHORITY: 5 U.S.C. 553 and 559; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; and 49 CFR 1.87.

SOURCE: 59 FR 63728, Dec. 9, 1994, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

EDITORIAL NOTE: Nomenclature changes to part 365 appear at 66 FR 49870, Oct. 1, 2001.

Subpart A—How To Apply for Operating Authority

§ 365.101 Applications governed by these rules.

These rules govern the handling of applications for operating authority of the following type:

(a) Applications for certificates and permits to operate as a motor common or contract carrier of property or passengers.

(b) Applications for permits to operate as a freight forwarder.

(c) [Reserved]

(d) Applications for licenses to operate as a broker of motor vehicle transportation.

(e) Applications for certificates under 49 U.S.C. 13902(b)(3) to operate as a motor carrier of passengers in intrastate commerce over regular routes if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

(f) [Reserved]

(g) Applications for temporary motor carrier authority.

(h) Applications for Mexico-domiciled motor carriers to operate in foreign commerce as common, contract or private motor carriers of property (including exempt items) between Mexico and all points in the United States. Under NAFTA Annex I, page I-U-20, a Mexico-domiciled motor carrier may not provide point-to-point transportation services, including express delivery

services, within the United States for goods other than international cargo.

(i) Applications for non-North America-domiciled motor carriers to operate in foreign commerce as for-hire motor carriers of property and passengers within the United States.

[59 FR 63728, Dec. 9, 1994, as amended at 60 FR 63981, Dec. 13, 1995; 62 FR 49940, Sept. 24, 1997; 67 FR 12714, Mar. 19, 2002; 67 FR 61820, Oct. 2, 2002; 73 FR 76488, Dec. 16, 2008; 74 FR 2901, Jan. 16, 2009]

EFFECTIVE DATE NOTE: At 78 FR 52646, Aug. 23, 2013, § 365.101 was amended by revising paragraphs (a) and (h), effective Oct. 23, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 365.101 Applications governed by these rules.

* * * * *

(a) Applications for certificates of motor carrier registration to operate as a motor carrier of property or passengers.

* * * * *

(h) Applications for Mexico-domiciled motor carriers to operate in foreign commerce as for-hire or private motor carriers of property (including exempt items) between Mexico and all points in the United States. Under NAFTA Annex 1, page I-U-20, a Mexico-domiciled motor carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

* * * * *

§ 365.103 Modified procedure.

The FMCSA will handle licensing application proceedings using the modified procedure, if possible. The applicant and protestants send statements made under oath (verified statements) to each other and to the FMCSA. There are no personal appearances or formal hearings.

EFFECTIVE DATE NOTE: At 78 FR 52646, Aug. 23, 2013, § 365.103 was removed, effective Oct. 23, 2015.

§ 365.105 Starting the application process: Form OP-1.

(a) Each applicant must file the appropriate form in the OP-1 series. Form OP-1 must be filed when requesting authority to operate as a motor

property carrier, a broker of general freight, or a broker of household goods; Form OP-1(P) must be filed when requesting authority to operate as a motor passenger carrier; Form OP-1(FF) must be filed when requesting authority to operate as a freight forwarder; Form OP-1(MX) must be filed by a Mexico-domiciled motor property, including household goods, carrier, or a motor passenger carrier requesting authority to operate within the United States; and effective December 16, 2009.

Form OP-1(NNA) must be filed by a non-North America-domiciled motor property, including household goods, carrier or a motor passenger carrier requesting authority to operate within the United States. A separate filing fee in the amount set forth at 49 CFR 360.3(f)(1) is required for each type of authority sought.

(b) Obtain forms at a FMCSA Division Office in each State or at one of the FMCSA Service Centers. Addresses and phone numbers for the Division Offices and Service Centers can be found at: <http://www.fmcsa.dot.gov/aboutus/fieldoffices>. The forms and information about filing procedures can be downloaded at: <http://www.fmcsa.dot.gov/factsfigs/formspubs>; and from the do-it-yourself website at: <http://www.diy.dot.gov>.

[66 FR 49870, Oct. 1, 2001, as amended at 67 FR 12714, Mar. 19, 2002; 67 FR 61820, Oct. 2, 2002; 73 FR 76488, Dec. 16, 2008]

EFFECTIVE DATE NOTE: At 78 FR 52646, Aug. 23, 2013, § 365.105 was revised, effective Oct. 23, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 365.105 Starting the application process: Form MCSA-1, FMCSA Registration/Update (USDOT Number—Operating Authority Application).

(a) Each applicant must apply for operating authority by electronically filing Form MCSA-1, FMCSA Registration/Update (USDOT Number—Operating Authority Application), to request authority pursuant to 49 U.S.C. 13902, 13903 or 13904 to operate as a:

- (1) Motor carrier of property or passengers,
- (2) Broker of general commodities or household goods, or
- (3) Freight forwarder of general commodities or household goods.

(b) A separate filing fee in the amount set forth at 49 CFR 360.3(f) is required for each type of authority sought in § 365.105(a).